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| In re Application of: | : | |
| Kumar et al. | : | |
| Application No.: 10/070,396 | : | DECISION |
| PCT No.: PCT/US00/24025 | : | |
| Int. Filing Date: 01 September 2000 | : | UNDER |
| Priority Date: 03 September 1999 | : | |
| Att. Docket No.: KSU.P0201 | : | 37 CFR 1.47 |
| For: Fabrication of Aligned Crystal Cell/Film By | : | |
| Simultaneous Alignment And Phase Separation | : | |

This is in response to the petition under 37 CFR 1.47(a) filed on 03 July 2002.

BACKGROUND

This international application was filed on 01 September 2000 and claimed earliest priority of an application filed on 03 September 1999. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 03 March 2002. On 01 March 2002, applicants filed *inter alia* the basic national fee.

On 08 May 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

On 03 July 2002, applicants filed the instant petition.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Petitioner has satisfied requirements (1) and (4), but has not satisfied requirements (2) and (3).

Regarding requirement (1), the petition fee accompanied the petition, thereby satisfying requirement (1).

Regarding requirement (2), it is not clear that non-signing joint inventor Satyendra Kumar has refused to execute a declaration after being presented with the declaration and a copy of the international application. Instead, it appears that the inventor was only presented with a declaration and assignment documents, but not with a complete copy of the application. As such, requirement (2) has not been satisfied.

Regarding requirement (3), the petition does not include an explicit statement of non-signing joint inventor Satyendra Kumar's last known address. Accordingly, requirement (3) has not been satisfied.

Regarding requirement (4), the declaration is acceptable for purposes of compliance with 35 U.S.C. 371.

CONCLUSION

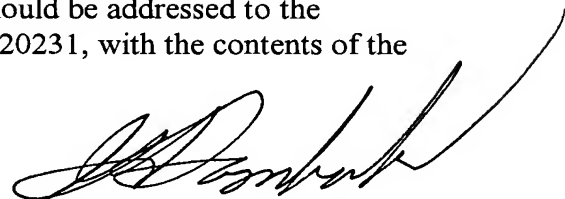
The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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